



**STATE OF NEVADA**  
**COMMISSION ON ETHICS**  
<http://ethics.nv.gov>

**Wednesday, April 11, 2007**  
**9:00 a.m.**

**Nevada State College**  
**Basic & Water II Bldg.**  
**311 S. Water Street**  
**Classroom 120**  
**Henderson, NV 89015**

**MINUTES**

These minutes constitute a summary of the above proceedings of the Nevada Commission on Ethics.  
A verbatim transcript of the open session proceedings, prepared by a certified court reporter,  
is available for inspection at the Commission offices in Carson City and Las Vegas.

**Commission Members Present:**

Jim Kosinski, Esq., Chairman; Rick R. Hsu, Esq.;  
George Keele, Esq.; Randall Capurro;  
William Flangas; Caren Jenkins, Esq. (telephonically)

**Commission Members absent due to their participation in the Panel Proceeding:**

Mark Hutchison, Esq., Vice Chairman; Timothy Cashman

**Commission on Ethics Staff Present:**

L. Patrick Hearn, Executive Director  
Adriana G. Fralick, Esq., General Counsel  
Matt Di Orio, Senior Investigator  
Tami DeVries, Research Analyst

**Others Present:**

George Chachas, Mayor, City of Ely;  
Hector Carbajal, Counsel for George Chachas

**Witnesses subpoenaed by the NCOE:**

Jim Alworth, City Clerk, City of Ely  
Kevin Briggs, Esq., White Pine County Deputy District Attorney,  
acting as Ely Deputy City Attorney  
Gary D. Fairman, Esq., Third Party Requester, contracted as special counsel by the City of Ely

Other members of the public were present as well.

Chairman Kosinski called the meeting to order at 9:10 a.m., Wednesday, April 11, 2007.

Agenda Item 1 – Open session to approve the minutes of the March 14, 2007, Commission meeting

Chairman Kosinski opened the agenda item to approve the minutes of the March 14, 2007, Commission meeting. Commissioner Hsu requested a correction to the minutes. Commissioner Keele moved approval of the minutes as amended. Commissioner Hsu seconded the motion. The motion was put to a vote and passed unanimously.

Agenda Item 2 – Open session to hear testimony, receive evidence, deliberate and render an opinion relating to Request for Opinion No. 06-13

Chairman Kosinski opened the agenda item to hear evidence, deliberate and render an opinion relating to a request for opinion submitted pursuant to NRS 281.511(2)(b), alleging that certain conduct of George Chachas, Mayor, City of Ely, violated the provisions of NRS 281.481(1), NRS 281.481(2), NRS 281.501(2), and NRS 281.501(4).

Commissioner Jenkins, participating by telephone, made a disclosure that she has a commitment in a private capacity and a pecuniary interest because her law firm represents Mr. Chachas in another matter. Therefore, she disclosed and abstained, stating she would not be participating in the hearing. She then ended the telephonic connection.

Commissioner Flangas made a disclosure that, although he has no family ties with Mr. Chachas, he has known him since he was a young boy. He also stated that he has the temperament and the experience to sit on this case without bias and make his decisions solely on the facts. There were no objections made by other commissioners or by Mr. Chachas or his attorney. Chairman Kosinski proceeded to have an oath administered to the witnesses and the subject.

Mr. Carbajal, Attorney for George Chachas, was invited to make an opening statement. He stated that this request for opinion involves a rather straightforward matter. That George Chachas, the Mayor of the City of Ely, faces review by this Commission for his retention of the gavel and control of the January 12<sup>th</sup>, 2006, meeting of the City Council when Agenda Item No. 15 came up for consideration. Item No. 15 called for authorization to seek outside legal representation for the City of Ely to resolve delinquent utility accounts for the Town and Country Motel owned by Mayor Chachas. Mr. Chachas is accused of retaining the gavel and control of the meeting during the consideration of that agenda item and of arguing that the City of Ely should not proceed to collect the utility bill from him as a private citizen. Following Mr. Carbajal's opening statement, Chairman Kosinski asked Mr. Carbajal if he would like go over some facts to see if Mr. Chachas would be willing to stipulate to them.

A recess was taken at 9:44 a.m. to review the written statement as provided by Mr. Carbajal in consideration of a written stipulation and to resolve concerns made by Commissioners. The Commission resumed testimony at 9:50 a.m. Commissioner Keele requested to view additional testimony, including the video or cassette tape of the January 12<sup>th</sup> meeting. Commissioner Hsu stated that, after reviewing the written opening statement, he would suggest that the Commission not accept it as a written stipulation. Commissioner Hsu also recommended that the Commission stick to what they had previously discussed in the form of a stipulation from the Mayor, and he listed them for the record as follows:

- 1) That the Mayor is the owner of the Town & Country Motel;
- 2) That the Mayor chaired the City Council meeting of January 12, 2006;
- 3) That there was an agenda item to hire independent counsel to collect on water and sewer and associated fees against the Mayor's motel;
- 4) That he vetoed the item ten days later;
- 5) That he did not disclose at the meeting of January 12, 2006 that he was the owner of the motel; and
- 6) That he advocated not hiring the independent counsel at the January 12, 2006 meeting.

Mayor Chachas did not agree to the 5<sup>th</sup> and 6<sup>th</sup> items above. The mayor had also confirmed that he had already lost election and that his term ends in June. The Commission then watched the video of the January 12, 2006, Ely City Council meeting and resumed testimony.

A recess was taken at 10:46 a.m., and the meeting reconvened at 10:59 a.m.

The Commission decided that no further testimony would be needed, and they released the witnesses from their subpoenas. The Commission then deliberated. Commissioner Hsu moved that, by a preponderance of the evidence, the Commission find that Mayor George Chachas violated NRS 281.501, subsection 4 due to his failure to disclose his interest in the agenda item before the Council. Commissioner Keele seconded the motion. The motion was put to a vote and passed unanimously.

The Commission then considered whether Mayor Chachas violated NRS 281.481, subsection 1 as to whether the Mayor sought to avoid the payment of a disputed utility bill for the Town & Country Motel, which he owned, when he acted on the matter before the City Council and thereby departed from the faithful and impartial discharge of his public duties. Commissioner Flangas moved that the Commission does not find a violation of the provisions of NRS 281.481 subsection 1, because there is not adequate evidence to show by a preponderance of the evidence that there was conduct which violated that provision. Commissioner Keele seconded the motion. The motion was put to a vote and passed unanimously.

With regard to NRS 281.481 subsection 2, which states "A public officer or employee shall not use his position in government to secure or grant unwarranted privileges for himself...", Commissioner Flangas moved that the Commission find that there is no violation of NRS 281.481 subsection 2. Commissioner Keele seconded the motion. The motion was put to a vote and failed 2-3. Commissioners Hsu, Capurro and Kosinski voted nay.

Commissioner Hsu moved that the Commission on Ethics find by a preponderance of evidence that Mr. Chachas violated NRS 281.481 subsection 2. Commissioner Capurro seconded the motion, which was put to a vote and passed 3-2. Commissioners Flangas and Keele opposed.

The Commission then considered whether Mayor Chachas violated NRS 281.501 subsection 2, with regard to abstention. Commissioner Hsu reminded the Commission members that this statute states that “a public officer shall not vote or advocate the passage of or failure of a particular matter but may otherwise participate in the consideration of the matter.” He further stated that they are guided by the Commission’s Kubichek Opinion, No. 97-07, which refers to a “razor-thin line between providing information or otherwise participating versus advocating.” Commissioner Hsu then stated that he believes there were definitely overtones of advocacy made by the Mayor and so the “thin-line” between information and advocacy clearly falls on the side of advocacy and, coupled with the fact that there is a veto ten days later, indicates a violation of NRS 281.501 subsection 2. Commissioner Keele stated that, based on the objective standard on all the evidence as a whole, was Mayor Chachas imbued with a sense that, if he as Mayor could lead the discussion, that he would be able to turn the minds of his fellow members, of the Ely City Council, and he believes that objectively his conclusion is that not at all. They were not persuaded, intimidated, and were not in awe of his position as Mayor, but simply George Chachas, the owner of the Town & Country Motel. Commissioner Hsu moved that the Commission on Ethics find that, by a preponderance of the evidence, Mayor Chachas violated NRS 281.501 subsection 2. Commissioner Capurro seconded the motion. The motion was put to a vote and passed 3-2. Commissioners Flangas and Keele opposed.

The Commission then deliberated whether the violations by Mayor Chachas were willful. Commissioner Hsu moved that the Commission find that the Mayor’s violation of NRS 281.501 subsection 4, regarding disclosure, is willful. Commissioner Capurro seconded the motion. The motion was put to a vote and passed 4-1, with Commissioner Flangas opposed.

The Commission then considered the violation of NRS 281.501 subsection 2 regarding abstention. Commissioner Hsu moved that the Commission find that the violation of NRS 281.501 subsection 2 was a willful violation. Chairman Kosinski seconded the motion. The motion was put to a vote and passed 3-2. Commissioners Flangas and Keele opposed.

As for NRS 281.481 subsection 2, Commissioner Capurro moved that the Commission find that, by a preponderance of the evidence, there was a willful violation of NRS 281.481 subsection 2 when the Mayor used his position to benefit his personal pecuniary position. Commissioner Hsu seconded the motion. The motion was put to a vote and passed 4-1. Commissioner Keele opposed.

The Commission then deliberated about the penalty phase. Commissioner Flangas moved that, for the three violations, NRS 281.481(2), NRS 281.501(2) and NRS 281.501(4), the total penalty be \$500.00. Commissioner Capurro seconded the motion. The motion was put to a vote and passed 4-1. Chairman Kosinski opposed.

A recess was taken. The meeting reconvened at 12:33 p.m. Commissioner Hsu moved that the Commission authorize its legal counsel to file a proceeding pursuant to NRS 281.551(4)(c) upon

the issuance of the written opinion by the Commission to Mayor Chachas. Chairman Kosinski seconded the motion. The motion was put to a vote and passed unanimously.

Chairman Kosinski closed this agenda item, and a lunch recess was taken at 12:48 p.m.

The meeting reconvened at 1:27 p.m.

Agenda Item 3 – Open session for update by the Executive Director for discussion and possible action of 2007 legislative session

Chairman Kosinski opened this agenda item. Mr. Hearn provided a history of legislative committee meetings for Nevada ethics laws created by Tami. He also provided an overview of all the bills that are currently being tracked. Items discussed were as follows:

- AB 142 - establishes new training requirements for public officers and lobbyists
- AB 605 - also involves training but does not include executive branch lobbyists
- AB 143 - introduced to raise the time for investigations to one year, and to inform the complainant the status of a complaint
- AB 79 - prohibits government officials, including legislators from using any government time, resources etc., for campaigning or for filling out financial disclosure statements
- AB 312 - provides new language related to the reporting of gifts
- AB 335 - introduced to remove the Commission on Ethics from the Financial Disclosure Statement business and places the entire responsibility to the Secretary of State regardless if the public officers were appointed or elected.
- AB 593 - includes that the Legislative Counsel Bureau does not have to represent a legislator before the Commission on Ethics

Mr. Hearn stated that he is also keeping an eye on AB 123 simply because it might impact the Commission as a state agency. He is not watching AB 425 because it doesn't impact the Commission as it relates to campaign practices but does contain an ethics component.

Mr. Hearn then talked about AJR-1, which amends the constitution to make it an automatic requirement that if somebody has three violations of ethics law, they forfeit their office. It would no longer be a requirement that they be referred for removal or impeachment. After further discussions, Commissioner Hsu moved that the Commission request the Legislature to consider amending NRS 281.551 subsection (4)(c) to include the phrase "each of which arises from separate acts or events," in between the words "violations" and "have." Commissioner Keele seconded the motion. The motion was put to a vote and passed unanimously.

Chairman Kosinski closed this agenda item.

Agenda Item 4 – Open session for review and possible concurrence of Commission with letter from U.S. Public Interest Research Group regarding potential Federal Ethics legislation

Chairman Kosinski opened this agenda item. Mr. Hearn stated that the correspondence the Commission has received from the U.S. Public Interest Research Group is advocating that Congress adopt an independent Ethics Commission such as we have here and as many other states have. Chairman Kosinski clarified that the issue is about the U.S. Congress, which is made up of legislators with an equal number of Democrats and Republicans. So the letter is basically asking the Ethics Commission if they support the idea of an independent outside agency hearing ethics complaints against members of the house. After discussions, there were no further actions required and the Chair closed this agenda item.

Agenda Item 5 – Open session for Chairman's Comments

Chairman Kosinski opened this agenda item to discuss disclosure and abstention and how the Chair would prefer for Commissioners to disclose or abstain during a public meeting or via e-mail in advance if they could not attend a meeting due to a conflict. Discussion was also made about the Commission's ability to request a temporary commissioner or board member when necessary if the Commission lacked a quorum. The Commission members agreed it would be best to wait for a future meeting with all members present to adopt a policy on this issue.

Chairman Kosinski then advised Commissioners that he would like to schedule a telephonic meeting to hear one or two advisory opinions and then have a work session regarding initiating complaints on our own motion. He requested that Mr. Hearn set up a time with Commissioners. Mr. Hearn stated that he would find out when he could schedule the requesters. Chairman Kosinski closed this agenda item.

Agenda Item 6 – Open session for public comment

Chairman Kosinski opened the agenda item for public comment. No public comment was made, and the agenda item was closed.

Chairman Kosinski adjourned the meeting at 2:44 p.m.

Minutes transcribed by:

Minutes approved May 9, 2007

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Emily H. Nunez, Office Manager

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Jim Kosinski, Chairman